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GALLO GLASS COMPANY

Attorneys for Plaintiff  
LARRY K. BOECKEN, JR.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LARRY BOECKEN, JR.,

Plaintiff,

v.

GALLO GLASS COMPANY, and DOES 1  
THROUGH 50, INCLUSIVE,

Defendant.

No. 1:05-CV-90 OWW DLB

STIPULATION AND ORDER TO  
CONTINUE HEARING ON CROSS  
MOTIONS FOR SUMMARY  
JUDGMENT/ADJUDICATION;  
STIPULATION REGARDING THE  
PARTIES' BRIEFING SCHEDULE

1 IT IS STIPULATED BY AND BETWEEN THE PARTIES, THROUGH  
2 THEIR COUNSEL, AS FOLLOWS:

- 3 1. On October 11, 2006, the Court issued its Order continuing the hearing on the parties'  
4 cross motions for summary judgment/adjudication to December 4, 2006 at 10:00 a.m.
- 5 2. That Order also requested that the parties reach a stipulation as to the consolidation of  
6 each party's opposition and reply.
- 7 3. On November 1, 2006, the parties filed a Stipulation and Proposed Order requesting that  
8 the Court continue the hearing date to January 8, 2007, due to a scheduling conflict on  
9 the part of Defendant Gallo Glass Company. The Court has not yet approved that  
10 Proposed Order, and the parties no longer request that the Court do so.
- 11 4. During the parties' attempts to reach a stipulation as to the consolidation of their  
12 oppositions and replies, they were unable to find a mutually acceptable briefing  
13 schedule that would permit them to file their consolidated papers fourteen days prior to  
14 the newly requested January 8, 2007 hearing date.
- 15 5. In light of this issue, the parties agree to, and seek the Court's approval of, a  
16 continuance of the hearing on the parties' cross motions for summary  
17 judgment/adjudication to Monday, February 12, 2007 at 10:00 a.m.
- 18 6. The parties further agree to a briefing schedule and procedure as follows:
  - 19 (a) on January 11, 2007, the parties will exchange (via facsimile, email or other means  
20 ensuring same-day delivery) their respective opposition papers, including a  
21 Memorandum of Points of Authorities ("MPA") not to exceed 22 pages;
  - 22 (b) neither side will be permitted to alter its opposition papers once they have been  
23 exchanged, with the exception that both sides are permitted to add 3 pages to their  
24 MPAs in reply to one another's opposition; and
  - 25 (c) the parties intend to prepare reply papers in response to one another's opposition  
26 papers following the exchange, and the parties agree that the filing deadline for  
27 opposition and reply papers is January 22, 2007.

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1                   **SO STIPULATED.**

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3     DATED: November 21, 2006

BINGHAM McCUTCHEN LLP

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5                   By: /s/ Bryan E. Daley

6                                 Bryan E. Daley  
7                                 Attorneys for Defendant  
                                  Gallo Glass Company

8     DATED: November \_\_\_\_, 2006

MURRAY & ASSOCIATES

9  
10                  By: /s/ Noah W. Kanter

11                                Noah W. Kanter  
12                                Attorneys for Plaintiff  
                                  Larry Boecken, Jr.

13                                 **ORDER CONTINUING HEARING**

14                   The Court **HEREBY ORDERS THAT** the hearing on the parties' cross motions  
15     for summary judgment/adjudication is continued to February 12, 2007 at 10:00 a.m.

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17  
18     DATED: \_November 22\_\_\_\_, 2006

\_\_\_\_/s/ OLIVER W. WANGER\_\_\_\_\_

19                                Hon. Oliver W. Wanger  
20                                Judge of the U.S. District Court  
                                  Eastern District of California